



Marathon Petroleum Company LP

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March 27, 2020

*SENT VIA EMAIL AND U.S. MAIL
(RETURN RECEIPT REQUESTED)*

Chief, Environmental Enforcement Section
Environmental & Natural Resources Division
U.S. Department of Justice
ENRD Mailroom, Room 2121
601 D Street NW
Washington, DC 20530

Director, Air Enforcement Division
U.S. Environmental Protection Agency
c/o Matrix New World Engineering, Inc.
26 Columbia Turnpike
Florham Park, NJ 07932

Air and Radiation Division
Attn: Compliance Tracker
U.S. EPA, Region 5
77 West Jackson Blvd. (AE-17J)
Chicago, IL 60604

Office of Regional Counsel
U.S. EPA, Region 5
77 West Jackson Blvd. (C-14J)
Chicago, IL 60604

Air Quality Compliance Tracking Coordinator
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, MN 55155-4194

Re: Notice of Force Majeure Event
First Revised Consent Decree in *United States, et. al. v. Marathon Ashland Petroleum LLC*, Civil Action No. 4:01CV-40119-PVG (E.D. Mich.)

On behalf of St. Paul Park Refining Co. LLC, a wholly-owned, indirect subsidiary of Marathon Petroleum Corporation (collectively, "MPC"), and pursuant to United States' and various states' efforts to respond to the novel coronavirus (COVID-19), this letter serves as notice of a *force majeure* event under Paragraph 57 of the above-referenced Consent Decree.¹ MPC requests temporary relief from certain provisions of the Consent Decree in support of its efforts to minimize risk of exposure and otherwise respond to COVID-19 without sacrificing the

¹ On September 1, 2005, Marathon Ashland Petroleum LLC, a Delaware limited liability company changed its name to Marathon Petroleum Company LLC. On October 1, 2010, Marathon Petroleum Company LLC converted to a limited partnership and changed its name to Marathon Petroleum Company LP ("MPC LP"). Pursuant to the terms of an October 6, 2010 Contribution Agreement entered into by MPC LP and St. Paul Park Refining Co. LLC, a Delaware limited liability company ("SPPRC"), MPC LP agreed to convey its ownership of the St. Paul Park Refinery and other assets to SPPRC. As of today, MPC LP and SPPRC are indirect, wholly owned subsidiaries of Marathon Petroleum Corporation. SPPRC remains the owner and operator of the St. Paul Park Refinery.

protection of human health and the environment at its refinery located in St. Paul Park, Minnesota.

MPC is committed to safe and environmentally responsible operation of its operating sites and fully embraces the emergency actions necessary to protect public health. To protect its employees, site contractors, and the general public, MPC is seeking to temporarily limit certain on-site activities by company personnel and contract personnel as part of its larger COVID-19 response to reduce social contact and comport with the "social distancing" guidelines issued by the Centers for Disease Control and Prevention (CDC) and the President of the United States through his "Coronavirus Guidelines for America" issued on March 16, 2020. These guidelines recommend avoiding close contact with other individuals (within 6 feet), avoidance of social gatherings of more than 10 people, avoiding discretionary travel, and working from home whenever possible. In addition, various states and cities have issued "stay-at-home" orders for those not engaged in critical work activities.

As a member of a critical infrastructure industry, MPC has a special responsibility to continue the safe and environmentally responsible operation of our facilities to ensure fuel supplies are maintained so that other critical infrastructure continues to function during the ongoing COVID-19 pandemic. We have already instituted a "work-from-home" policy for non-essential personnel consistent with CDC guidance. Despite many of the present actions taken by governments and businesses, the virus continues to spread. Many more cases are being reported daily. We believe that additional restrictions to site personnel will likely be necessary to slow the spread and protect our operations and maintenance personnel essential to running our assets safely and reliably. These steps could include, but are not limited to, restricted access for third-party contractors, further restriction of on-site staff to only core operating and maintenance personnel, and reduction of laboratory personnel. As continued restrictions persist, we are also preparing for potential consequences in the supply chain, including inability to transport samples to third-party laboratories and inability to receive consumables.

To achieve the common goal of inhibiting the spread of COVID-19, some periodic sampling, testing, recordkeeping and reporting activities required under the Consent Decree can and should be deferred during the present phase of the response in order to protect essential personnel necessary for safe refinery operations. These actions can be safely and responsibly deferred and then resumed as soon as conditions are appropriate.

MPC, therefore, submits this notice that ongoing events surrounding COVID-19 constitute a *force majeure* event under Paragraph 57 of the Consent Decree, and that the events may delay performance of certain obligations under the Consent Decree. Obligations under the Consent Decree that may be delayed due to the *force majeure* event include, but are not limited to, those that require third-party contractors or other non-essential personnel to be physically present at the refineries; that require international, interstate or other currently-restricted travel by employees or contractors; that require international or interstate shipment of samples for analysis; or that require actions of third parties (e.g., accredited laboratories) that may also have personnel and resource limitations or restrictions due to their own or their political jurisdictions' responses to COVID-19.

Central to MPC's claim of *force majeure* is the recognition that many of these activities drive increased social interactions with third-party contractors that enter and leave our facilities, and other neighboring facilities, daily. Some of the functions identified in this letter also require contractors and consultants to engage in significant travel and overnight accommodations, which further increases the chances of spreading the virus. This runs counter to the "social distancing" recommendations from the CDC, the President of the United States, and various state and city directives. Complicating matters further, many contractors and consultants will not be reporting daily to their normal workplaces and have instituted travel bans for their employees, meaning there is a shortage of qualified personnel to complete certain regulatory requirements. Even though we are prepared to conduct much of our work remotely, it is unprecedented to carry out certain work entirely via remote communications, and indeed impossible to carry out others. As reflected in this notice, most of the anticipated delays in compliance reflect a focus on responsibly minimizing onsite activities and social interaction and lesser access to complete information due to self-isolation (*e.g.*, employee or contractor personnel held home, sick or quarantined).

This letter is intended to serve as an initial, advance notification that the ongoing events surrounding COVID-19 constitute a *force majeure* event. Events surrounding COVID-19, and the efforts of MPC and federal, state, and local authorities to combat the spread of the novel coronavirus remain fluid. Accordingly, MPC intends to supplement this advance notification with additional information to support this claim of *force majeure* as set forth in Paragraph 57 of the Consent Decree.

Significantly, the obligations that may be delayed by the *force majeure* event described in this letter will not, in MPC's judgment, cause or contribute to an endangerment to public health, welfare, or the environment.

We believe that by taking these measures, we can do our part to slow the spread of COVID-19. This notice of *force majeure* covers only those provisions requiring activities that are inconsistent with implementation of MPC's COVID-19 response, while maintaining safe and environmentally responsible operation. If you have any questions about this request, please contact me with any questions at 419-421-3871 or racade@marathonpetroleum.com.

Sincerely,



Ruth A. Cade
Director, Refining Environmental & Assurance
Marathon Petroleum Company LP

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